

CITY OF MUSKEGON  
PLANNING COMMISSION  
REGULAR MEETING  
MINUTES

**September 10, 2009**

Chairman T. Michalski called the meeting to order at 4:01 p.m. and roll was taken.

MEMBERS PRESENT: T. Michalski, B. Larson, T. Harryman, B. Turnquist,  
S. Warmington, L. Spataro, B. Mazade, B. Smith

MEMBERS ABSENT: None

STAFF PRESENT: L. Anguilm, D. Leafers

OTHERS PRESENT: G. Rinard, 2362 Crozier; P. Lundwall, 17676 W. Spring Lake Rd;  
C. Brady, 1820 Edgewater; S. Warmington, 1983 Lakeshore Dr.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of July 16, 2009 be approved, was made by B. Turnquist, supported by S. Warmington and unanimously approved.

B. Mazade arrived at 4:03 p.m.

B. Smith arrived at 4:04 p.m.

PUBLIC HEARINGS

Hearing; Case 2009-11: Request to vacate the southerly 159.5 feet of the alley located in Block 427 of the City of Muskegon Revised Plat of 1903, bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue, and Fifth Street, by Al and Tracy Hairston, 236 W. Forest Avenue. A request has been submitted by Al and Tracy Hairston, the homeowners at 236 W. Forest, which is adjacent to this alley. They feel the alley is very dangerous, due to cars speeding through the alley and not stopping before pulling out onto Forest Avenue. There are also a lot of kids hanging out in the alley doing various mischievous activities. The applicants and their neighbor across the alley have no other access to their parking area located at the rear of their properties. The applicants say that if the alley is vacated, they will share the property with their neighbor for joint access to their parking areas. Parking is not allowed in a front yard, so they must have access to their parking areas in the back yard. Staff recommends that as a condition of approval, the two parties be required to have joint easement agreements recorded with the Register of Deeds for each of their properties. This avoids problems in the future if new owners purchase either of the properties. The Public Works and Fire Departments have no issues with the alley vacation. Staff has received no other comments regarding this request and recommends approval.

Board members had some questions regarding this request. Since the applicants were not present, the case was tabled.

A motion to table this request until the next Planning Commission meeting so that the applicants can be present to answer questions, was made by T. Harryman, supported by B. Larson and unanimously approved.

Hearing; Case 2009-12: Request for a Special Land Use Permit, per section 1201 #4 of Article XII of the Zoning Ordinance to allow a Christian Science Reading Room and Church in a B-3, Central Business zoning district at 500 W. Western Avenue, by Ardis M. Peters, First Church of Christ Scientist, 280 W. Muskegon Avenue. L. Anguilm presented the staff report. This property is known as the Noble Building and has a “storefront” appearance on Western Avenue. A special land use permit was granted at this location in November 2005 at the request of Gordon Rinard, who represented the church at that time. The use was not established within the one year time limit so became null and void. The church is making the same request again, due to the impending sale of their building on Webster Avenue. The applicant would like to locate the Christian Science Reading Room in the Western Avenue storefront area, and the church services would be held in the rear area of the building. The southwesterly storefront houses an attorney’s office. Zoning of the subject property is B-3, Central Business, as are all properties surrounding it. The property is located in the “Downtown Parking Overlay District”, so up to 30% of the parking requirements could be accommodated with on-street parking within 1,000 feet of the property. The building is located across Western Avenue from the City’s parking lot, which could provide any additional parking required for the site. The B-3, Central Business District is “intended to provide for and regulate land and building uses so as to continue to create a shopping, living, cultural, governmental, office, heritage, and institutional focal point for the City of Muskegon and the Muskegon Area.” Staff has received no comments regarding this request and recommends approval, based on compliance with the 1997 Master Plan and City Zoning Ordinance, with the conditions listed in the staff report.

G. Rinard provided some details on the sale of the church on Webster Ave. They will be moving out of there and need a new place to meet. L. Spataro asked if there was any difference between this request and the earlier one. G. Rinard didn’t believe so. L. Spataro asked if this could affect the liquor license of the neighboring CIO hall. B. Larson stated that the CIO would need an approval letter from the church when applying for a liquor license. G. Rinard stated that the church could not stop an event from occurring, they could only state their opinion. They had supported Parties in the Park in the past, and wanted to be a good neighbor.

A motion to close the public hearing was made by S. Warmington, supported by B. Smith and unanimously approved.

A motion that the special land use permit, per section 1201 (1) of Article XII of the Zoning Ordinance, to allow a Christian Science Reading Room and a church in a B-3, Central Business zoning district at 500 W. Western Avenue, by Ardis Peters, First Church of Christ Scientist, be approved, based on compliance with the City’s Master Land Use Plan and conditions set forth in Section 2332 of the City of Muskegon Zoning Ordinance with the conditions that 1) The owner shall permit the Zoning Administrator or other zoning staff in the premises at reasonable times to review compliance with this permit, 2) The Special Land Use permit document shall be recorded with the Register of Deeds prior to establishment of the use, and 3) The special land use permit shall become null and void within one year of the public hearing if the use has not been established or there is a violation of conditions 1 & 2, was made by L. Spataro, supported by T. Harryman and unanimously approved.

## NEW BUSINESS

Case 2009-13: Request for Site Plan Review for property located at 3198 Edgewater Street, by Phillip Lundwall, Muskegon Yacht Club. L. Anguilm presented the staff report. The subject property is 2.62 acres of waterfront property zoned WM, Waterfront Marine, and includes a clubhouse, pool with changing rooms and a boat house. Properties to the east are zoned WM, and properties to the north, west, and south are zoned R-1, Single Family Residential. There are presently 71 existing boat slips. The Yacht Club plans to replace those slips with new ones, and add 16 new slips and a protective wave attenuating breakwall. The construction of the new boat slips requires additional parking. There is adequate paved area shown on the site plan to accommodate a good portion of the required parking spaces. However, the parking areas will need to be striped in order for additional spaces to be added and more orderly parking to take place. There are several areas where the maneuvering lanes shown between parking spaces is too narrow. A minimum of 22 feet is required for two-way traffic, or 12 feet for one-way traffic. Although an adequate number of spaces are included on the site plan, some rearrangement will be necessary to fit them on the site. Staff can work with the applicant to get the site plan in compliance. The Planning Department requires the following amendments to the site plan as conditions of approval: a) all maneuvering lanes must meet minimum requirements in the parking lots, and b) curb stops or rolled curbing is required for all parking spaces. The Engineering Department has the following conditions of approval: a) no work to be done in the public right-of-way, such as drive approaches or sidewalks, and b) any dredged/excavated materials must be stockpiled and protected against erosion, per the required permit from Muskegon County DPW. The Department of Public Works has no outstanding issues with the site plan. The Fire Department has following conditions of approval: a) fire protection required per International Fire Code 2006 Edition, Section 905.3.7 and NFPA 303 Standards, b) shop drawings shall be submitted to the Fire Marshall and Building Inspections Department for approval, and c) fire protection contractor for this project shall contact the local Fire Marshall. Staff recommends approval of the request for site plan approval for 16 additional boat slips, new attenuating breakwall, and reconfiguring the current parking lots, subject to the conditions listed in the staff report. Staff received 2 letters from neighboring property owners regarding this request. J. Tripp of 3182 Edgewater is opposed, as is J. Schiller of 3172 Edgewater.

L. Anguilm provided board members with an area map showing where the neighbors were in relation to the yacht club. B. Mazade disclosed that he was a member of the Muskegon Yacht Club, but that he would not benefit financially from this case. B. Larson requested that he recuse himself from hearing this case. B. Turnquist asked how the number of required parking spots were calculated. L. Anguilm explained the process. T. Michalski asked who would determine whether or not the yacht club was intruding on the neighbor's riparian rights, as claimed in their letter. L. Anguilm stated that it would be the DEQ. B. Larson asked P. Lundwall if the parking agreement between himself and Torresen Marine was a "gentleman's agreement" or if it was in writing. P. Lundwall stated that it was a "gentleman's agreement". He stated that they have always had a good relationship with Torresen's. He stated that the yacht club would provide a shuttle from the satellite parking area to the club. B. Turnquist asked if approval of the floating breakwall mentioned in the staff report was under the Planning Commission's jurisdiction. L. Anguilm stated that the breakwall would be under the DEQ's authority, and it was her understanding that they had already given approval. B. Larson asked why the expansion was needed. P. Lundwall stated that the docks were in poor repair and needed to be replaced. He also stated that the existing slips could not accommodate larger boats. T. Harryman asked what the club's capacity was currently at. P. Lundwall stated that they were at 100% capacity. L.

Spataro asked if the proposed project would expand the yacht club's space beyond where it currently was. P. Lundwall stated that it would not; it would affect a couple of moorings, but it would not expand further into the lake. T. Michalski asked how many moorings would be lost. P. Lundwall estimated that they would lose two or three. S. Warmington asked what specifically the Planning Commission was being asked to approve. L. Anguilm stated that it was the additional docks and the necessary parking spaces that would be required. S. Warmington asked if the Planning Commission had any say over the use of the water. L. Anguilm stated that they did not; however, any additional dock spaces would require more parking. S. Warmington and L. Anguilm concurred that if there were no additional parking issue, the Planning Commission would have no say on how far out into the lake the expansion could go. S. Warmington addressed the letters of opposition submitted by two of the neighboring property owners. He stated that the riparian rights would be a legal issue, over which the Planning Commission had no authority. B. Larson asked what the wave attenuating breakwall was, and what size it would be. P. Lundwall explained the breakwall and stated that it would be a couple of feet above the water line, the same as the docks. He also stated that they had reduced the number of dock spaces from what they had originally planned, in order to comply with parking requirements. P. Lundwall stated that it was a substantial project that would bring money into the community.

C. Brady spoke in opposition to the request on behalf of herself and the Bluffton Bay Association. She stated that the DEQ had denied this permit back in 2002, and it had been a contested issue between the neighbors, the Bluffton Bay Association and the yacht club since that time. She stated that the Association was opposed to any expansion. Their reasons included yacht club infringement on lake space that belonged to the entire Association, increased traffic and noise, congested parking spilling into neighborhood streets and grassy areas, and difficulty with emergency vehicles being able to navigate narrow streets crowded with parked cars. B. Larson stated that property owners had previously turned down proposals to upgrade the roads in that area. He asked P. Lundwall about the statement in the previous DEQ permit from 2002 stating that it would be the last expansion by the yacht club. P. Lundwall stated that he was not at the yacht club then and was not aware of that statement. S. Warmington asked B. Mazade why the DEQ didn't hold a public hearing on the permit. B. Mazade stated that he wasn't sure of what the DEQ's criteria was for holding a public hearing, but he knew that there was another DEQ case recently where a public hearing was not held. S. Warmington asked if the City could request a public hearing. B. Mazade stated that they could, but he believed that a permit had already been issued in this case. C. Brady stated that that permit was for a different project. Board members discussed the DEQ permits for the yacht club.

A motion to table this case until a determination could be made on whether the DEQ had already issued a permit for this work, was made by S. Warmington, supported by T. Harryman and unanimously approved.

Case 2009-14: Request for Site Plan Review for property located at 2969 Lakeshore Drive, by Brian Torresen, Torresen Marine Inc. L. Anguilm presented the staff report. The subject property is 7.8 acres on the southeast side of Lakeshore Drive, which formerly housed the old Norge Plant. It currently includes the Marine Ship Store in one portion of the large building. The remainder of the buildings are used for storage. The applicant wishes to construct a 60 x 45-foot building on the rear of the property to be used for additional boat storage. The setback from the rear property line will be 10 feet per Kathleen Torresen, and is so indicated on the staff copy of the site plan. The subject property is zoned WM, Waterfront Marine, as are properties to the northwest and northeast. Properties to the southeast are zoned R-1, Single Family Residential,

and there is a narrow strip of land to the south zoned I-2. The Planning Department has no outstanding issues with the site plan. The Public Works and Engineering Departments have no comments regarding the site plan. L. Anguilm read the Fire Department's comments. Staff has received no other comments regarding this request and recommends approval, subject to the conditions listed in the staff report.

L. Spataro asked what the building would look like. L. Anguilm stated that it would look similar to the other buildings on the site. It would be located to the rear of the property and would not be easily visible from the street.

A motion that the site plan for a 60 x 45-foot boat storage building for Brian Torresen, Torresen Marine, Inc., be approved, based on the condition that all conditions of the Fire Department are met, was made by S. Warmington, supported by B. Mazade and unanimously approved.

### OLD BUSINESS

Hearing; Case 2009-08: Staff-initiated request to amend Section 2311, #10 (Accessory Structures & Buildings) of Article XXIII, to include "Wind Turbines" as permitted structures. This case was tabled from the July meeting. Since that time, board members were provided with additional information on wind turbines and related ordinances.

Staff has received many questions and inquiries regarding both residential and commercial wind turbines. With the public gaining more interest in "going green", companies are working to develop more usable wind turbines. The Frauenthal Theater had installed one on top of their building, and some grant money has been available to other organizations to facilitate installation on top of other buildings in the City. Presently our zoning ordinance deals pretty well with wind turbines mounted on structures, such as buildings. However, more interest is being shown in freestanding units. Proposed language for wind turbines as accessory structures was provided in the staff report, and the following two cases deal with "wind turbine facilities" and the definitions for both. The language allows wind turbines only in commercial and industrial zoning districts and requires site plan approval from the Planning Commission. Minimum parcel size is 2 acres. Although the amendments were written by staff, the City Attorney's office reviewed the language and gave suggestions and input. Residential wind turbines will continue to be addressed through Section 2309, Height Regulations, #3.

A motion that the amendment to Section 2311 of the City of Muskegon Zoning Ordinance, Article XXIII, #10, General Provisions, to include "wind turbines" as permitted structures with Planning Commission approval, be recommended to the City Commission for approval, was made by L. Spataro, supported by T. Harryman and unanimously approved.

Hearing; Case 2009-09: Staff-initiated request to amend Section 2310, Article XXIII of the City of Muskegon Zoning Ordinance to add "Wind Turbine Facilities". This case was also tabled from the July meeting. Although no wind turbine facilities have been proposed in the City, some inquiries have been made as to where they would be allowed and under what conditions. Therefore, staff feels it would be better to put some language in place to deal with any applications that are received for these facilities. Under this language, "wind turbine facilities" would be allowed as special land uses in B-2, B-3, B-4, and B-5 zones, as well as I-1 and I-2 zones. Applications would be received and considered by the Planning Commission, which also involves approval of proposed site plans. Minimum parcel size is 10 acres. As with both of

these cases, amendments may be needed in the future as development takes place and unforeseeable issues arise. If this amendment is approved by the Planning Commission and City Commission, amendments to the Business and Industrial districts to include “wind turbine facilities” as special land uses will be brought to the Planning Commission in the near future.

A motion that the amendment to Section 2310 of Article XXIII, General Provisions, of the City of Muskegon Zoning Ordinance to add requirements for “wind turbine facilities” be recommended to the City Commission for approval, was made by T. Harryman, supported by S. Warmington and unanimously approved.

Hearing; Case 2009-10: Staff-initiated request to amend Article II, Definitions, to add definitions for “Wind Turbine” and “Wind Turbine Facility”. Proposed definitions were included in the staff report.

A motion that the amendment to Article II, Definitions, of the City of Muskegon Zoning Ordinance to add definitions for “wind turbine” and “wind turbine facility” be recommended to the City Commission for approval, was made by T. Harryman, supported by S. Warmington and unanimously approved.

#### OTHER

Kirksey Investments Corporation – L. Anguilm provided board members with information on the project at 1204 W. Western Ave. The site plan was approved by staff, but she wanted the board members to be aware of it.

Great Lakes Naval Museum – S. Warmington spoke as a Great Lakes Naval Museum board member. Their board was not clear about the regulations imposed by the Planning Commission concerning events at their museum facility. They had several questions and concerns. L. Anguilm, S. Warmington, and T. Michalski agreed to form a sub-committee to meet with Naval Museum personnel and discuss the issues.

There being no further business, the meeting was adjourned at 5:34 p.m.

9/10/09

dml